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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/579,280

Filing Date: January 25, 2007

Appellant(s): OPPEL ET AL.

Andre Pallapies
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 10 January 2011 appealing from the Office action mailed 17 August 2010.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The following is a list of claims that are rejected and pending in the application:
22-32, 34-39, 43, and 44

(4) Status of Amendments After Final

The examiner has no comment on the appellant's statement of the status of amendments after final rejection contained in the brief.

(5) Summary of Claimed Subject Matter

The specification fails to disclose that the gripping device includes various elements.

(6) Grounds of Rejection to be Reviewed on Appeal

The examiner has no comment on the appellant's statement of the grounds of rejection to be reviewed on appeal. Every ground of rejection set forth in the Office action from which the appeal is taken (as modified by any advisory actions) is being maintained by the examiner except for the grounds of rejection (if any) listed under the subheading

“WITHDRAWN REJECTIONS.” New grounds of rejection (if any) are provided under the subheading “NEW GROUNDS OF REJECTION.”

WITHDRAWN REJECTIONS

The following grounds of rejection are not presented for review on appeal because they have been withdrawn by the examiner. The rejection of claim 26 under 35 U.S.C. 112, second paragraph, is withdrawn, and the rejections of claims 22, 24, 27, 28, 37, and 43 under 35 U.S.C. 103(a) have been withdrawn as noted in the “Notice of Panel Decision from Pre-Appeal Brief Review” dated 16 December 2010.

(7) Claims Appendix

The examiner has no comment on the copy of the appealed claims contained in the Appendix to the appellant’s brief.

(8) Evidence Relied Upon

No evidence is relied upon by the examiner in the rejection of the claims under appeal.

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 22-32, 34-39, 43, and 44 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In regards to claim 22, it is unclear how the gripping device 20 can be "gripped and moved by a user to open the door," when it is clear from the specification and drawings that the gripping device cooperates with the hook and the opening lever 52 is the component that is gripped by a user to move the closing member 12 to rotate the gripping device and release the hook, as discussed in the claim objection above. For examination purposes, the claim will be given a broad interpretation until further clarification from applicant.

In regards to claim 26, it is unclear how the means for selectively blocking is moved into the second position when it is clear that the second position is the deactivation of the means for selectively blocking, allowing the movement or operation of the closing member. If applicant is intending to claim that the means for selectively blocking is still engaging the closing member, but just moving down the notches of the locking head, then positions relating to this movement should be set forth in the claim. For examination purposes, the claim will be given a broad interpretation until further clarification from applicant.

In regards to claim 31, it is unclear how claim 31 can depend from claim 28 when it is clear that the species recited in claim 31 is the species shown in Figures 10 and 11. It is clear that this species utilizes a separate structure, as discussed in Paragraph 63 of the amended specification. For examination purposes, this claim recites the same species as claim 34 and will be considered dependent upon claim 22 until further clarification from applicant.

(10) Response to Argument

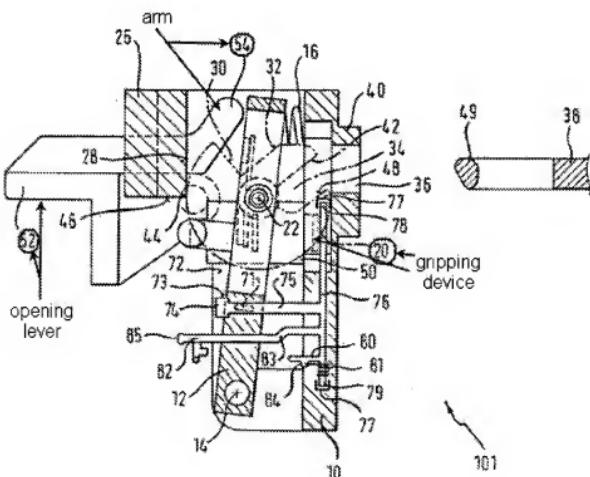
A. Claims 22-25, 27-30, 34-39, 43 and 44

The appellant argues that the “gripping device” recited in claim 22 includes both the element identified by reference 20, and the element that includes opening lever 52 and the arm 54. The appellant further argues that the fact that the gripping device is made up of multiple components does not render claim 22 indefinite.

The specification as originally filed does not provide support for the “gripping device” to include multiple components, and appellant has not pointed out specific passages of the specific that define the “gripping device” as components 52, 54, and 20. The specification states in Paragraph 54, lines 1 and 2 that the gripping device is denoted by reference character 20, as shown in Figure 2, and is “mounted rotatably about an axis 22 on the closing lever 12”. The gripping device 20 is further discussed in Paragraphs 55-59, with Paragraph 59 discussing that when the opening lever 52 is moved clockwise, and the arm 54 of the opening lever 52 presses together the closing lever 12 clockwise such that the gripping device 20 moves to open the lock. It is clear from the specification that the “gripping device” is component 20, the latching component that cooperates with hook 38, not the opening lever 52, the arm 54, and component 20 (see annotated figure below). The examiner notes that a “device” as per its dictionary definition may include multiple components; however, the specification defines the “gripping device” as a single component designated by reference character 20. Claim 22 is considered indefinite because the claim language recites that the gripping device can be gripped and moved by a user, however, as discussed in the

specification, the opening lever 52 is the component that is gripped by a user, which then moves the closing lever 12 to affect the position of the gripping device 20; engaged or disengaged from the hook 38. The examiner set forth language in a claim objection in the Final Office Action dated 17 August 2010 that would correct claim 22 to clarify which component of the device is actually gripped by a user to open the door lock and to therefore overcome the rejection under 35 U.S.C. 112, second paragraph, set forth in the same action.

Fig. 2



C. Claims 31 and 32

The appellant argues that it is true that the embodiment illustrated in Figure 8 has a lock mechanism that is different from the one recited in claim 31, claim 31 does not attempt to claim the lock mechanism illustrated in Figure 8. Instead, claim 31 merely recites that the appliance door includes a handle with a gripping shell (one embodiment of which is illustrated in Figure 8). A handle with a gripping shell as illustrated in Figure 8 could be used on an appliance door having any various different lock mechanisms disclosed in the application.

Claim 31 is not an originally filed claim, filed with PCT/EP04/52956, but was added in a preliminary amendment on 12 May 2006. The claim was considered indefinite because claim 31 contradicts with the limitations in claim 28 from which it depends since the embodiment in Figures 2-6, which is specifically referred to in the claim language of claim 28, such as the limitation "a pivoted shaft" which is equivalent to component 76 (Figures 2 and 4), is not disclosed in the specification and the drawings as including a handle and gripping shell, which are specific components to the embodiment in Figures 8-12 and discussed in Paragraph 73 of the specification. Claim 31 recites structure specific to the embodiment in Figures 8-12, which utilizes a slider 90 which is slid relative to the gripping shell 93 to move a pin 70 in and out of the recess of the closing lever 12 to block the movement of the gripping device 20, whereas, the embodiment in Figures 2-7 utilizes a pivoted shaft 76 on which a pin 70 is located such that a user rotates the shaft 76 via an adjusting lever 82 to move the pin 70 in and out of the recess of the closing lever 12 to block the movement of the gripping device 20. The specification does not provide support for the use of the gripping shell in cooperation

with the pivoting embodiment shown in Figures 2-7, and appellant has not provided citations from the specification that discuss the gripping shell being utilized with the pivoting embodiment. The specification only discloses and the drawings only illustrate the gripping shell as being part of the embodiment in Figures 8-12 that utilizes a sliding component 90.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

/Alyson Merlino/

Examiner, Art Unit 3673

/Peter M. Cuomo/

Supervisory Patent Examiner, Art Unit 3673

Conferees:

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Appeals Conference Specialist

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